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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,537	04/12/2006	Ulf Deisenroth	DEISENROTH ET AL-1 PCT	5462
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COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			CAJILIG, CHRISTINE T	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,537	Applicant(s) DEISENROTH ET AL.	
	Examiner CHRISTINE T. CAJILIG	Art Unit 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38,39,42-44,47-53,56-61,63,64 and 66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38,39,42-44,47-53,56-61,63,64 and 66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38 and 47-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Salari (U.S. Patent No. 1,281,846) (herein “Salari”).

Regarding claim 38, Salari discloses a modular shelter system, particularly for transport of persons and/or objects, comprising a container (the aircraft, pg. 1, Ln 86-93); a capsule-shaped housing (10) said housing being produced at least partially by means of winding technology, said housing having a shape, at least on an underside, which guarantees a deflection of blast waves, a support frame (20) attached to an outside of said housing for accommodating said housing within said container; and an accommodation system (11 and elements within 11) disposed within said housing, said accommodation system being mounted so that said accommodation system is uncoupled from a floor (underside of said housing) of said housing extending parallel to a ground surface, wherein said accommodation system comprises a base element (11) and one or more seats (18) disposed above the base element.

Regarding claim 47, Salari further discloses that the container is part of a vehicle (the aircraft).

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Regarding claim 48, Salari further discloses that the housing and the accommodation system are placed on a vehicle (which is the aircraft that is part of the container)

Regarding claim 49, Salari further discloses that a space (space defined between concentric members 10 and 11 and space created between the container and the housing 10) is present between the accommodation system (11) that is uncoupled from the floor of the housing and a floor of the container.

Regarding claim 50, Salari further discloses that fixed and/or shock-resistant and/or energy-resistant and/or impact-resistant structures (19) are disposed in the space/interstice, and wherein the base element (11) does not rest against the housing (10).

Regarding claim 51, Salari further discloses that the structures have a reinforcement structure (13) in the form of a floor support or in the form of a frame structure.

Claims 38 and 47-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Provenzano (U.S. Patent No. 2,715,001) (herein "Provenzano").

Regarding claim 38, Provenzano discloses a modular shelter system, particularly for transport of persons and/or objects, comprising a container (15, 34); a capsule-shaped housing (28) said housing being produced at least partially by means of winding technology, said housing having a shape, at least on an underside, which guarantees a deflection of blast waves, a support frame (30) attached to an outside of said housing

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for accommodating said housing within said container; and an accommodation system (21, 24) disposed within said housing, said accommodation system being mounted so that said accommodation system is uncoupled from a floor (underside of said housing) of said housing extending parallel to a ground surface, wherein said accommodation system comprises a base element (21) and one or more seats (24) disposed above the base element.

Regarding claim 47, Provenzano further discloses that the container is part of a vehicle (the aircraft).

Regarding claim 48, Provenzano further discloses that the housing and the accommodation system are placed on a vehicle (which is the aircraft that is part of the container)

Regarding claim 49, Provenzano further discloses that a space (22 and space where elements 30 are located) is present between the accommodation system that is uncoupled from the floor of the housing and a floor of the container.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Salari in view of Summers (U.S. Patent No. 3,294,346),

Regarding claim 39, Salari further discloses that the housing can have any size and shape (Page 1, Ln 34-38) but does not disclose that the housing has an oval cross-section in the vertical section and in a section that runs at a right angle to its longitudinal axis.

Summers discloses a housing that has an oval cross-section.

Thus it would have been obvious to a person of ordinary skill in the art to try an oval cross-sections as taught by Summers as a person with ordinary skill has good reason to pursue known options within his or her technical grasp and such a modification would have involved a mere change in the shape of the components. A change in shape is generally recognized as being within the level of ordinary skill in the art absent persuasive evidence that the particular configuration of the claimed device was significant. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). In addition, the shaped as claimed would act similar to the circular shape disclosed by Salari.

Claims 43, 52, 63 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salari.

Regarding claim 43, Salari discloses the structure above, but does not disclose that the housing comprises fiber laminate material, concrete, or combinations thereof. It would have been obvious to one having ordinary skill in the art at the time of invention to use fiber laminate since it has been held to be within the general skill of a worker in

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the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Fiber laminate would provide a lightweight, yet durable material.

Regarding claims 52, Salari discloses the modular shelter system as set forth above, but does not disclose that the reinforcement structure is made from homogenous aluminum or fiber laminate. It would have been obvious to one having ordinary skill in the art at the time of invention to use aluminum or fiber laminate for the reinforcement structure, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Aluminum and fiber laminate would provide a durable, readily available material.

Regarding claim 63, Salari further discloses that the seats are configured to be shock-absorbing and energy absorbing (due to springs 19).

Regarding claim 66, Salari further discloses that the seats can be removed or disassembled from the shelter system.

Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Salari in view of Barecki (US Patent 3,630,566).

Regarding claim 64, Salari discloses the modular shelter system as set forth above, but does not disclose that two seats rest against one another with their backrest regions, in each instance, and have seating surfaces that face away from one another.

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Barecki discloses a seating arrangement wherein two seats (22, 23) rest against one another with their backrest regions (20), in each instance, and have seating surfaces that face away from one another (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to provide the accommodation system of Salari with the shared backrest seating arrangement in view of the teachings of Barecki. The motivation for doing so would be to increase the seating capacity of the modular shelter system.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Provenzano in view of Ladika et al. (US Patent 5,663,520).

Regarding claim 42, Provenzano discloses the modular shelter system as set forth above, but does not disclose that the housing has a door/door system having a redundant emergency exit function.

Ladika discloses an armored, blast resistant vehicle wherein each housing has a door system having a redundant emergency exit function.

It would have been obvious to a person having ordinary skill in the art at the time of the applicant's invention to modify the structure of Provenzano to have the structure as taught by Ladika above to provide an armored vehicle with increased safety and evacuation features.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Provenzano.

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Regarding claim 43, Provenzano discloses the structure above, but does not disclose that the housing comprises fiber laminate material, concrete, or combinations thereof. It would have been obvious to one having ordinary skill in the art at the time of invention to use fiber laminate since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Fiber laminate would provide a lightweight, yet durable material.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Provenzano in view of Miguel (US Patent 4,404,889).

Regarding claim 44, Provenzano discloses the modular shelter system as set forth above, but does not disclose that honeycomb structures, foams, or renewable raw materials are integrated into the housing.

Miguel discloses using a honeycomb structure (20 – Fig. 1) in the body of an armored vehicle.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the housing of Provenzano with a honeycomb structure in view of the teachings of Miguel. The motivation for doing so would be to increase the blast resistance of the housing.

Claims 50 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Provenzano in view of Bottcher et al. (CA 2,402,753) ("Bottcher et al.").

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Regarding claim 50, Provenzano further discloses that a shock-resistant, energy-resistant or impact resistant structures (30) is disposed in the space but does not disclose that the base element (21) does not rest against the housing (28).

Bottcher et al. discloses a shelter system with a base element (4) that does not rest against the housing (1) to further eliminate shock effects.

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify the structure of Provenzano to have the base element not rest against the housing as taught by Bottcher et al. to further eliminate effects of shock.

Regarding claim 61, Provenzano modified by Bottcher et al. further discloses that the base element (21) rests on the structures (30) directly or by way of an intermediate layer.

Claims 53, 57, 59, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Provenzano and Bottcher et al. as applied in claim 50 above, and further in view of Knoll et al. (US Patent 6,378,939 B1) ("Knoll et al.").

Regarding claims 53, 57, 59, and 60, Provenzano modified by Bottcher et al. discloses the modular shelter system as set forth above, but does not disclose that the accommodation system above the structures is determined in its position via an attachment system which engages the housing above the space between the accommodation system and the floor; wherein the attachment system is formed by one or more first attachment struts articulated in the upper or lateral region of the housing

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which have a connection with the seats; and wherein the attachment system is configured to be shock-absorbing in one or more degrees of freedom and the seats are accommodated on the attachment element in a shock-absorbing manner.

Knoll et al. disclose an accommodation system (Figs. 1 - 2) above the floor that is position by means of an attachment system which engages the housing above the space between the accommodation system and the floor; wherein the attachment system is formed by one or more first attachment struts (138, 110) articulated in the lateral region of the housing which have a connection with the seats; and wherein the attachment system is configured to be shock-absorbing in one or more degrees of freedom and the seats are accommodated on the attachment element in a shock-absorbing manner (see Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to mount the accommodation system of Provenzano in view of Bottcher et al. so that it is mounted as disclose by the teachings of Knoll et al. The motivation for doing so would be to provide the accommodation system with increased shock absorbing capability.

Claims 56 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Provenzano in view of Bottcher et al. and Knoll et al. as applied in claim 53 above, and further in view of Hoffman (US Patent 6,267,440 B1).

Regarding claims 56 and 58, Provenzano modified by Bottcher et al. and Knoll et al. further disclose that the attachment system is formed by means of one or more

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second attachment elements/struts (138) articulated on in the upper or lateral region of the housing, but does not disclose that each seat is connected with the base element and has a connection to the housing by an attachment system.

Knoll et al. further discloses that the seat of an accommodation system (Figs. 1 - 2) above the floor is position by means of an attachment system articulated in the lateral region of the housing which have a connection with the seats.

Hoffman discloses wherein each seat is connected (10) with the base element/the base plate.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to mount the accommodation system of Provenzano modified by Bottcher et al. and Knoll et al. so that it is mounted as disclose by the further teachings of Knoll et al. and Hoffman. The motivation for doing so would be to provide the accommodation system with increased shock absorbing capability and to allow the seat to support more weight.

Response to Arguments

Applicant's arguments with respect to claims 38, 39, 42-44, 47-53, 56-61, 63, 64 and 66 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lent (US 3,034,131).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. CAJILIG whose telephone number is (571) 272-8143. The examiner can normally be reached on Monday-Thursday, 9 am - 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. T. C./
Examiner, Art Unit 3633

/Robert J Canfield/
Primary Examiner, Art Unit 3635